

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SECOND DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 3960 of 2005

Between:

Blue Moon Hotels Private Limited, 6-3-1186/A, Begumpet, Hyderabad, rep. by its
Managing Director, G. Vittal
S/o. Ramalingam, aged about 56 years, R/o. Hyderabad.

..... PETITIONER

AND

- 1 The Commissioner, Employees Provident Fund,
Bhavishyanidhi Bhavan,
Barkatpura, Hyderabad -27.
- 2 The Assistant Commissioner, C & R Circle -II,
Employees Provident Fund,
Bhavishyanidhi Bhavan, Barkatpura, Hyderabad-27.
- 3 The Recovery Officer, Employees Provident Fund,
Bhavishyanidhi Bhavan, Barkatpura, Hyderabad-27.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue appropriate writ or order or orders and more particularly in the nature of Writ of Mandamus declaring that the acts, deeds and things of the respondents in passing the order dt. 13-2-2004 in proceedings No.AP/3739/ENF.C.II/17/2004/5460 by the respondent No.2 demanding the petitioner to pay an amount of Rs. 3,52,303/- and in pursuance of the same issuance of warrant of attachment of movable property by the respondent No.3 dt. 28-9-2004 in proceedings No. AP/3739/R.Cell/R.C.No.151/03, 147/04 and 54/2K demanding to pay an amount of Rs. 6,20,838/- are illegal, arbitrary, against to the provisions of the Employees Provident Funds and Miscellaneous Provisions Act, 1952, against to the principles of natural justice, abusive of process of law and much against to the legal and fundamental rights guaranteed under the Constitution of India and consequently set aside the same.

Counsel for the Petitioner:MR.CH.VENKAT RAMAN

Counsel for the Respondent Nos.1 to 3: MR.R.N.REDDY

The Court at the stage of admission made the following :

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ORDER:

This writ petition is filed against the order dated 28.09.2004 passed by the third respondent-Recovery Officer, Employees Provident Fund, S.R.O., Guntur, whereunder a warrant of attachment of movable property of the petitioner was issued for non-payment of the amounts due as per the Recovery Certificate – Nos.151/04, 147/04 and 54/2000, issued under the provisions of Employees Provident Funds and Miscellaneous Provisions Act, 1952 (for short “the Act”).

Sri.R.N.Reddy, the learned Standing Counsel appearing for the respondents states that the impugned warrant of attachment was issued in pursuance of the order dated 13-02-2004 passed by the respondents under Section 14-B of the Act and since against the said order an alternative remedy, by way of appeal, is available under Section

7-I of the Act, without exhausting the said remedy, the petitioner cannot maintain this writ petition.

Accordingly, the writ petition is disposed of granting leave and liberty to the petitioner to prefer an appeal against the said order within a period of four weeks from today. If any appeal is preferred within the said period, the same shall be entertained and appropriate orders be passed in accordance with law. In the meanwhile, the respondents are directed not to take any coercive steps against the petitioner and not to enforce the

impugned warrant of attachment for a period of six weeks from today, subject to condition that the petitioner deposits Rs.3,00,000/- (Rupees three lakhs only) within a period of six weeks from today. It is made clear that any amount that has already been paid by the petitioner, shall be given credit to.

02.03.2005

Note : Furnish C.C by tomorrow.

(B/O)

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To

- 1 The Commissioner, Employees Provident Fund,
Bhavishyanidhi Bhavan,
Barkatpura, Hyderabad -27.
- 2 The Assistant Commissioner, C & R Circle -II,
Employees Provident Fund,
Bhavishyanidhi Bhavan, Barkatpura, Hyderabad-27.
- 3 The Recovery Officer, Employees Provident Fund,
Bhavishyanidhi Bhavan, Barkatpura, Hyderabad-27.
- 4 2 CD copies.